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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,319	01/05/2004	Michael Bryan Kelly		2409

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Michael B. Kelly  
215 Woodland CT  
Safety Harbor, FL 34695

EXAMINER

PAIK, STEVE S

ART UNIT PAPER NUMBER

2876

DATE MAILED: 09/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/751,319

Applicant(s)

KELLY, MICHAEL BRYAN

Examiner

Steven S. Paik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/5/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Information Disclosure Statement*

1. The information disclosure statement filed January 5, 2004 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

### *Claim Objections*

2. Claim 1 is objected to because of the following informalities: "said recording system" in 16 appears to be -- said recording device --. The applicant is respectfully requested to make a correction if applicant intended to claim the recording device. The same can be found more than once throughout the claim. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Chung et al. (US 6,892,944 B2).

Re claim 1, Chung et al. disclose an electronic voting apparatus comprising

a) a selection system(voting machine; col. 8, ll. 5-29) providing the means for a voter to

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- i) view voting options (via DU; display unit for displaying information to a voter),
- ii) make voting selections (via VI; the voter can enter information into the voting machine VM; col. 8, ll. 63+),
- iii) cause said selections to be printed on a ballot (LP; col. 11, ll. 6-8) whereby said selections become part of the contents of said ballot, and
- b) an electronic recording device (ballot reader apparatus 1000) providing the means to
  - i) accept (input container 1020) said ballot (100), and
  - ii) read said selections from said ballot (1010 read the information and /or markings on ballots 100), and
  - iii) accumulate counts of selections (330 in Fig. 8) from a plurality of said ballots (100), and
  - iv) retain a plurality of said ballots (1040; output container in Fig. 7),
- c) wherein said selection system has been designed or implemented such that
  - i) all information containing inputs to said selection system are generated by activities of said voter (voter marks the ballot 100; col. 3, ll. 11-32), and
  - ii) all outputs of said selection system are the said ballot (LP provide a tangible independent record of each individual voter's voting selections associated with the voter's unique identifying number and/or may be utilized to print ballots 100), and
  - d) and all inputs (ballots 100) to said recording system are either said ballot or a plurality of said ballots (Fig. 7),

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e) all outputs of recording system generated during the voting process consists of said accumulated counts and said plurality of ballots that are retained within said recording device (1040) while said recording device is engaged in the voting process, wherein

f) only after the voting process for said recording device has been concluded or suspended, can said outputs of said recording system be accessed (424 and 430 in Fig. 9) and

g) said outputs of said recording system are accessible only to members of the polling team in the physical presence of said recording system (Voter machine container is rugged and sealable for security and to prevent unauthorized access to the components therein, thereby being resistant to tempering).

Re claim 2, Chung et al. discloses the electronic voting system as recited in rejected claim 1 stated above, wherein all said inputs to and all said outputs of said selection system and said recording system are observable by a person of ordinary skill in computer usage such that said person can ascertain that said outputs of said recording device are indeed results of proper usage of said electronic voting system (col. 8, ll. 5-29 and Figs. 5-10).

Re claim 3, Chung et al. discloses the electronic voting system as recited in rejected claim 1 stated above, wherein said electronic voting system contains a verifying device providing a means for reading said contents of said ballot (two readers 1031 and 1032 of reader device 1010 which read the information and/or marking on ballots 100 as they pass a transport path 1030), and displaying said contents of said ballot to said voter such that said voter is able to ascertain that said contents of said ballot is in agreement with said selections previously made by said voter (col. 14, ll. 20-+).

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Re claim 4, Chung et al. discloses the electronic voting system as recited in rejected claim 1 stated above, wherein said electronic voting system prints (using LP) said ballot using publicly available schemes providing the means for said ballot to be read by publicly available devices (reading device) so said contents of said ballot can be ascertained to be as intended by said voter.

Re claim 5, Chung et al. disclose a method or process of secure voting comprising the steps of

- a) making voting selections (voting machine; col. 8, ll. 5-29, and
- b) producing a physical ballot (LP; col. 11, ll. 6-8) readable by human and by machine (col. 19, ll. 36-45), and
- c) a recording reading of said ballot by machine in order to accumulate a plurality of said voter selections (steps 330, 332 and 334 in Fig. 8).

Re claim 6, Chung et al. discloses the method as recited in rejected claim 5 stated above, wherein there is an additional verification reading of said ballot by machine (col. 12, ll. 7-19) and an observation of the machine read contents of said ballot to ensure correctness of said contents of said ballot.

Re claim 7, Chung et al. discloses the method as recited in rejected claim 6 stated above, wherein said additional reading (step 430 in Fig. 9) of said ballot is performed between said printing (412) of said ballot and said recording reading (432) of said ballot.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


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Kargel (US 6,726,090B1) and Vadura et al. (US 2003/0178484 A1) disclose a method and system of voting. Vadura et al. particularly disclose an electronic voting system including features that are user friendly and provides accurate and verifiable voting results.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven S. Paik whose telephone number is 571-272-2404. The examiner can normally be reached on M, T, R, and Friday 5:30a-4:00p (Maxi-Flex\*).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Steven S. Paik  
Primary Examiner  
Art Unit 2876

ssp